

Chapter 5.06

ARBORISTS

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5.06.010 Definitions.

For the purpose of this chapter the following definitions shall prevail:

Pruning shall mean an operation performed on a tree for the removal of any branches, alive, diseased or dead, in order to prevent or suppress diseases or to balance or shape the tree for any reason whatsoever.

Removal shall mean the removal operation performed to eliminate a diseased, dead or hazardous tree.

Spraying shall mean an operation performed using insecticides, fungicides, or both, to prevent or cure any pests or diseases in any tree or woody plant.

Tree shall mean a perennial plant having a woody supporting main stem or trunk, ordinarily growing to definite heights and usually developing branches at some distance from the ground. (Ord. 15455 §1; March 5, 1990: P.C. §12.16.010: Ord. 9956 §1; April 6, 1970: prior Ord. 8287 §1; December 23, 1963).

5.06.020 Arborist's Certificate Required.

It shall be unlawful for any person, for hire or other valuable consideration to trim and cut or prune limbs or branches of trees; to perform tree surgery; to cut into and excavate cavities or remove rotten, dead or diseased wood from any tree or to remove any tree; to fill or treat in any manner any cavity in a tree; to repair any broken or injured tree; to spray or otherwise treat for pests or diseases any tree; to treat in any manner, any tree without first having obtained an arborist's certificate so to do as hereinafter provided.

Work done by employees, and for the holders of first or second arborist's certificates, pursuant to and within the scope of work permitted by such certificates, shall be deemed in compliance with this section. Nothing herein contained is intended to apply to trees required to be removed to allow construction work to be accomplished. (Ord. 15455 §2; March 5, 1990: P.C. §12.16.020: Ord. 8287 §2; December 23, 1963).

5.06.030 Issuance and Classification of Arborist's Certificates.

(a) The Parks and Recreation Director shall issue an arborist's certificate and an identification card, which shall not be transferable, to any applicant who passes an examination for such certificate. These certificates shall be issued in two classes:

(b) A first-class arborist's certificate shall entitle the holder thereof to work for hire or other valuable consideration, to trim and cut or prune limbs or branches of trees; to perform tree surgery; to cut into and excavate cavities or to remove rotten, dead or diseased wood from any tree or to remove any tree; to fill or treat in any manner any cavity in a tree; to repair any broken or injured tree; to spray or otherwise treat for pests or diseases any tree, or to treat in any other manner any tree as described in Section 5.06.020, subject to the requirements hereinafter set forth.

(c) A second-class arborist's certificate shall entitle the holder thereof, for hire or other valuable consideration, to spray or otherwise treat for pests or diseases any tree, as described in Section 5.06.020, subject to the requirements hereinafter set forth.

Nothing herein contained shall prohibit the employment by the holders of an arborist's certificate of helpers who are not holders of arborist's certificates, provided the work done by such helpers is within the scope of work permitted by the employer's arborist's certificate and also provided the work done by the helper is under the person supervision and direction and in the presence of a holder of an arborist's certificate issued by the city of the class of work being done. (Ord. 15455 §3; March 5, 1990: P.C. §12.16.030: Ord. 8287 §3; December 23, 1963).

5.06.040 Certificate of Compliance.

It shall be unlawful for any firm, partnership, or corporation to do any act made unlawful in Section 5.06.020 until such firm, partnership, or corporation has been granted a certificate of compliance by the Parks and Recreation Director. The issuance of such certificate of compliance shall be conditioned upon the following:

One or more persons of such firm or partnership, or in the case of corporation, one or more officers, including the manager or any other individual designated and registered to accept service of summons in the name of the corporation, shall be a holder of an arborist's certificate of the grade required for the work undertaken; and, provided further, that all work shall be under the personal supervision and direction and in the presence of a holder of an arborist's certificate of the proper class. (Ord. 15455 §4; March 5, 1990: P.C. §12.15.040: Ord. 8287 §4; December 23, 1963).

5.06.050 Application for Arborist's Certificate.

(a) Every applicant for an arborist's certificate shall make application upon a blank furnished by the Parks and Recreation Director and obtain thereon the endorsement of two citizens of Lincoln, at least one of whom shall be a freeholder. Statements of fact made in the application shall be verified under oath. Applicants shall be at least eighteen years old, of temperate habits and good character.

(b) The Parks and Recreation Director shall pass upon all applications for and determine the fitness of all applicants to receive arborist's certificates as hereinafter set forth. (Ord. 15455 §5; March 5, 1990: P.C. §12.16.050: Ord. 8287 §5; December 23, 1963).

5.06.060 Examination Fees.

Each applicant for an arborist's certificate shall, upon making application therefor, pay to the City Treasurer the following fee designated for the particular class of certificate for which such applicant is applying, which fee shall be used to apply on the costs of examination and shall not be returned:

- (a) First-class arborist's certificate fee \$25.00
- (b) Second-class arborist's certificate fee \$25.00

(Ord. 17600 §1; January 31, 2000: prior Ord. 16104 §1; May 4, 1992: Ord. 15455 §6; March 5, 1990: P.C. §12.16.060: Ord. 8287 §6; December 23, 1963).

5.06.070 Examination.

(a) All examinations shall be oral or written in the discretion of the Parks and Recreation Director and the applicant shall also be required to pass a practical test. A grade of seventy-five percent shall be required to pass. A complete stenographic record of all oral examinations shall be made and the typewritten transcript thereof, together with the written examinations, shall be kept on file by the Parks and Recreation Director.

(b) Any applicant who fails to pass the examination herein provided for, shall be required to wait at least three months after the date of such examination before again making application for such certificate. The applicant shall be required to pay the same fee as for the original examination.

(c) Any applicant who fails to present him or herself before the Parks and Recreation Director for examination at the time set by said director shall forfeit the fee paid and the applicant's application shall be cancelled, unless good cause can be furnished. (Ord. 15455 §7; March 5, 1990: P.C. §12.16.070: Ord. 8276 §7; December 23, 1963).

5.06.080 Scope of Examination.

(a) The examination for a first-class arborist's certificate shall require a knowledge of arboriculture and the principles and practice of planting, preservation, culture, pruning and shaping of trees, repairing of damage to same and measures necessary to control and exterminate insects, other pests, and diseases from trees.

(b) The examination for a second-class arborist's certificate shall require a knowledge of the principles and practice of spraying or otherwise treating for pests or diseases in trees. (Ord. 15455 §8; March 5, 1990: P.C. §12.16.080: Ord. 8287 §8; December 23, 1963).

5.06.090 Liability Insurance.

Before an arborist's certificate is granted or renewed, applicants and certificate holders shall comply with the insurance requirements set forth in Chapter 5.58 of the Lincoln Municipal Code. (Ord. 15455 §9; March 5, 1990: P.C. §12.16.090: Ord. 12013 §2; June 27, 1977: prior Ord. 8287 §9; December 23, 1963).

5.06.100 Expiration of Certificates.

All certificates, unless revoked for cause, shall be valid up to and including the thirty-first day of December next subsequent to the date of issuance and shall be renewed from year to year thereafter upon the payment to the City Treasurer of ten dollars for each year. If not renewed within one year from the date of expiration, a new application and reexamination shall be required. (Ord. 17600 §2; January 31, 2000; prior Ord. 16104 §2; May 4, 1992: Ord. 15455 §10; March 5, 1990: P.C. §12.16.100: Ord. 8287 §10; December 23, 1963).

5.06.110 Identification.

(a) It shall be unlawful for any holder of an arborist's certificate to use any vehicle in the conduct or maintenance of such business permitted hereunder, unless such vehicle shall have placed upon it in a conspicuous place an insignia furnished by the Parks and Recreation Director, identifying such vehicle as the vehicle of a holder of an arborist's certificate. It shall be unlawful for any person to display such insignia on any vehicle unless he or she has a valid arborist's certificate in force. The fee for such insignia shall be established from time to time by executive order of the Mayor. Trailers attached to such vehicle shall not be required to be equipped with such insignia.

(b) Every holder of an arborist's identification card is required to show such card to the person from whom he or she is soliciting business or for whom he or she is performing a service, and to any law enforcement officer of the city upon their request. (Ord. 15455 §11; March 5, 1990: P.C. §12.16.110: Ord. 13310 §1; February 8, 1972: prior Ord. 8287 §11; December 23, 1963).

5.06.120 Rules and Regulations.

The Parks and Recreation Director is hereby authorized to promulgate rules and regulations for the proper administration of this chapter which shall include methods of good arboriculture practices which all arborist's certificate holders are required to follow. Such rules and regulations shall be furnished each arborist's certificate holder and shall be filed in the office of the City Clerk and become effective on the date of such filing. (Ord. 15455 §12; March 5, 1990: P.C. §12.16.120: Ord. 8287 §12; December 23, 1963).

5.06.130 Revocation of Certificate.

The Parks and Recreation Director may revoke the certificate of any holder of an arborist's certificate for violating any of the provisions of this chapter or any rules and regulations promulgated pursuant thereto. (Ord. 15455 §13; March 5, 1990: P.C. §12.63.130: Ord. 8287 §13; December 23, 1963).

5.06.140 Enforcement.

It shall be the duty of the director, or such person as the director may designate, to enforce the provisions of this chapter. (Ord. 15455 §14; March 5, 1990: P.C. §12.16.140: Ord. 9079 §1; August 22, 1966: prior Ord. 8287 §14; December 23, 1963).

5.06.150 Appeals.

Any person whose application for an arborist's certificate under this chapter has been denied or who has been affected by any notice which has been issued in connection with the enforcement of any of the provisions of this chapter, any request and shall be granted a hearing on the matter before the Mayor;

provided, that such person shall file in the office of the City Clerk a written petition requesting such hearing within ten days after receiving notice of such denial, revocation or other ruling or order. Upon receipt of such petition, the Mayor shall set a time and place for such hearing and shall give the petitioner written notice thereof. The petitioner shall be given an opportunity to be heard on the appeal. After such hearing, the Mayor shall make findings as to compliance with the provisions of this chapter and any rules and regulations promulgated pursuant thereto and shall issue an order in writing sustaining, modifying or withdrawing the denial or notice. (Ord. 15455 §15; March 5, 1990: P.C. §12.16.150: Ord. 8287 §15; December 23, 1963).